

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 03-0024P**

**Sales Tax**

**For Calendar Years 1996, 1997, 1998, 1999, 2000, and 2001**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer was audited for calendar years 1996 through 2001. The auditor's review of taxpayer's business activity revealed that the taxpayer had been conducting business in Indiana since its incorporation in 1996. The taxpayer sells, delivers, installs, and repairs lubrication equipment. The examination revealed that the taxpayer was not registered with the Department of Revenue to collect Indiana Gross Retail Sales Tax and tax returns had not been filed. Sales of equipment and parts delivered or shipped to Indiana customers without valid exemption certificates are included in the audit report.

Taxpayer requests abatement of the penalty because it was not aware that sales tax should be paid to Indiana.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states that it was unaware that sales tax is due to the state of Indiana.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations.

Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

Taxpayer sold, delivered, and installed lubrication equipment in Indiana. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer’s protest is denied.